

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-6330**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

CRAIG LAMONT SCOTT,

Defendant - Appellant.

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Appeal from the United States District Court for the District of Maryland, at Baltimore. Catherine C. Blake, District Judge. (CR-95-202-HNM, CA-03-1957-CCB)

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Submitted: July 19, 2004

Decided: August 10, 2004

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Before LUTTIG and MOTZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Craig Lamont Scott, Appellant Pro Se. Jefferson McClure Gray, OFFICE OF THE UNITED STATES ATTORNEY, Baltimore, Maryland, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Craig Lamont Scott seeks to appeal the district court's order denying relief on his Fed. R. Civ. P. 59(e) motion to alter or amend its order dismissing his motion filed under 28 U.S.C. § 2255 (2000) as untimely. A Rule 59(e) motion should be granted in only one of three circumstances: "(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Pac. Life Ins. Co. v. Am. Nat'l Fire Ins. Co., 148 F.3d 396, 403 (4th Cir. 1998). This Court reviews the denial of a Rule 59(e) motion for an abuse of discretion. Dennis v. Columbia Colleton Med. Ctr., Inc., 290 F.3d 639, 653 (4th Cir. 2002). Scott's Rule 59(e) motion extends appellate review to the underlying denial of habeas relief. Sawyer v. Atl. Discount Corp., 442 F.2d 349, 351 (4th Cir. 1971).

An appeal may not be taken from the final order in a § 2255 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or

wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001).

We have independently reviewed the record and conclude that Scott's § 2255 motion was clearly untimely. Accordingly, he has not made the requisite showing for issuance of a certificate of appealability. We further find no abuse of discretion in the district court's denial of Scott's Rule 59(e) motion. We thus deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED